

March 25, 2004

ENERGY & ENVIRONMENT  
COMMITTEE  
REPORT NO. 4

ALL MEMBERS PRESENT.

1. RESOLVED, that the following items are hereby received and filed.

- |    |  |      |       |               |
|----|--|------|-------|---------------|
| a. | Item   | Page | -2004 | (Comm. 5E-19) |
|    | <b>COUNTY EXECUTIVE:</b> Parks – Master Plan Implementation – Engineer Supplement Agreement.<br>(5-0)  |      |       |               |
| b. | Item   | Page | -2004 | (Comm. 7E-24) |
|    | <b>COUNTY EXECUTIVE:</b> Southtowns Sewage Treatment Agency – Southtowns Sand Filter Project – Falter Construction Corporation – Dispensation of Hours.<br>(5-0)         |      |       |               |
| c. | Item   | Page | -2004 | (Comm. 7E-25) |
|    | <b>COUNTY EXECUTIVE:</b> ECSD No. 6 – Bethlehem Park Sewer Rehab Phase I – C. Destro Development – Dispensation of Hours.<br>(5-0)                                       |      |       |               |
| d. | Item   | Page | -2004 | (Comm. 7E-28) |
|    | <b>COUNTY EXECUTIVE:</b> ECSD No. 3 – A/E Agreement – Change Order No. 1 – Consolidation of Blasdel & ECSD No. 3 / Southtowns Sewage Treatment Agency Services.<br>(5-0) |      |       |               |

**AS AMENDED**

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|----|---|------|-------|---------------|
| 2. | Item  | Page | -2003 | (Intro. 24-7) |
|    | <b>HOLT, SMITH, DUSZA, MARINELLI, SCHROEDER, CHASE &amp; RANZENHOFER</b><br>WHEREAS, in New York State there are approximately 6,000 cemeteries and in Erie County, there are numerous cemeteries, many small and often poorly-known, and |      |       |               |

WHEREAS, paralleling similar problems across the state, many of those cemeteries are not maintained or kept-up for a variety of reasons, and

WHEREAS, one well-known example of that distressing situation is the Concordia Cemetery on Walden Avenue, and

WHEREAS, the New York State Department of State's Division of Cemeteries has previously held discussions with City of Buffalo officials concerning the disposition of that specific cemetery, including ways in which local government may be a conduit for state financial assistance, and

WHEREAS, the Erie County Department of Parks, Recreation and Forestry maintains County parks and other parcels, and utilizes prison work crews from the Erie County Correctional Facility, and

WHEREAS, the Commissioner of that department has expressed satisfaction with the inmate work program, and has utilized those crews for a variety of projects in County parks and County-owned parcels, including beautification, weed and brush-clearing, mowing, and flower/shrub planting, and

WHEREAS, the Erie County Sheriff's Department and the Erie County Department of Social Services have separately and previously utilized inmates and Work Fare recipients for clean-up projects at Concordia Cemetery, including brush, tree, weed and grass clearing and disposal, and those departments have expressed support for the continuation of such work projects at that cemetery and other locations as appropriate and based on the availability of work crews, and,

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature expresses its desire that lacking other alternatives, the County of Erie work to develop ways with local officials and other private entities to help maintain or clean-up neglected and/or abandoned cemeteries in Erie County, and be it further

RESOLVED, that this Honorable Body expresses its interest in exploring ways in which the County can help maintain neglected or abandoned cemeteries and adjacent lots owned by cemetery associations or local municipalities through the inmate work program, the Department of Social Services Work Fare program, and the County's Department of Parks, Recreation and Forestry, and be it further

RESOLVED, that this Honorable Body requests that the appropriate officials from the Department of Parks, Recreation and Forestry; Erie County Sheriff; and Department of Social Services form an interagency team and work with the appropriate officials from Concordia Cemetery and Beth Jacobs Cemetery, other appropriate cemeteries and local government officials to develop an action plan to use inmate work crews and Work Fare participants in clean-up and maintenance projects, and be it further

RESOLVED, that certified copies of this resolution be transmitted to the Erie County Executive, Commissioner of Parks, Recreation and Forestry, Erie County Sheriff, Superintendent of the Erie County Correctional Facility, Commissioner of Social Services, the New York State Division of Cemeteries (41 State Street, Albany, NY 12231-0001), and Elizabeth Triggs of the Concordia Cemetery Board of Directors (P.O. Box 813, Buffalo, NY 14205).

Fiscal Impact: Unknown at this time.  
(5-0)

**AS AMENDED**

3.      Item                      Page                      -2003                      (Intro. 24-9)  
           **HOLT, MARINELLI, SMITH, DEBENEDETTI, DUSZA & SCHROEDER**

WHEREAS, in 1980, in large part prompted by the environmental and public health crisis at Love Canal in Niagara Falls, the United States Congress established the Superfund program to locate, investigate, and clean-up the worst toxic and hazardous waste sites in the country, and

WHEREAS, Superfund was created by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), a bill signed into law on December 11, 1980 that created an initial trust fund of \$1.6 billion over five years, and

WHEREAS, CERCLA was amended by the Superfund Amendments and Reauthorization Act (SARA), enacted October 17, 1986 establishing a trust fund of \$8.5 billion over 5 years, and which was extended to September 30, 1994 and an additional \$5.1 billion was authorized, and

WHEREAS, under Superfund, the responsible polluting parties are identified, prosecuted, and forced to pay for the remediation and clean-up of their properties, and

WHEREAS, under the program an "orphan fund" was established to pay for the clean-up of properties in which the responsible parties or polluters cannot be identified or located or which are bankrupt, and

WHEREAS, the orphan fund was funded by taxes on chemical and oil companies and others, in such a way as to create and maintain a sustainable revenue source for the clean-up of contaminated properties, and

WHEREAS, by the end of 2002, over 22 years, the Superfund, along with its state and local partner programs, had assessed nearly 44,418 sites, with 33,106 sites, or 75% of the total, having been removed from the Superfund inventory to help encourage economic redevelopment, while 11,312 sites remain active with the site assessment program, or are on the National Priorities List, and

WHEREAS, Superfund is administered by the U.S. Environmental Protection Agency, and

WHEREAS, according to the EPA's Comprehensive Environmental Response, Compensation, and Liability Information System database, among the many national, state-wide and regional Superfund or related state or local contamination sites, there are Superfund or related sites in Erie and Niagara Counties including Love Canal, Hickory Woods, Altift Realty, Ashland I and II, Babcock Warehouse, Bern Metals, Buffalo Color, Buffalo Weaving and Belting, 379 Genesee Street site, Chemical Sales Corp., Clinton Bailey site, Columbus McKinnon Tonawanda site, Envirotek Tonawanda site, Feldman Barrel and Drum, Fillmore Trailer site, Germania Street, Hertel Avenue, High Street Warehouse, Hopkins Avenue, Lackawanna Foundry, Madison Wire Works West Seneca, Morgan Chemicals, Newstead site, Niagara Mohawk Cherry Farm, NL Industries Depew, Pfohl Brothers landfill Cheektowaga, Polymer Applications Tonawanda, Seaway Industrial Waste Disposal Tonawanda, Tonawanda LF, Union Carbide Tonawanda, Union Road site Cheektowaga, Universal Irons and Metal, West Seneca Transfer, and Wide Beach Development Brant, and

WHEREAS, in 1995, the orphan fund tax expired and was not renewed, and

WHEREAS, no new monies have been paid into the orphan fund since 1995, and in 2004, the fund will be completely exhausted of monies for the clean- up of contaminated properties, leaving thousands of contaminated properties unremediated and posing significant dangers to the environment and to public health,

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County legislature expresses its support for the Superfund, and be it further

RESOLVED, that this Honorable Body calls on the U.S. House of Representatives and U.S. Senate to renew the orphan tax, and for President Bush to sign the renewal into law, and be it further

RESOLVED, that certified copies of this resolution be submitted to President George W. Bush, EPA Administrator Michael Leavitt, U.S. Senators Charles Schumer and Hillary Rodham Clinton, and U.S. Representatives Thomas Reynolds, Jack Quinn, Louise Slaughter and Amo Houghton.

Fiscal Impact: Positive for our community.

(5-0)

**AS AMENDED**

4. Item Page -2004

(Comm. 4E-19)

**COUNTY EXECUTIVE**

WHEREAS, the Erie County Sewer District No. 2 Board of Managers and the Erie County Legislature have previously authorized construction of a network of sanitary sewers and pumping stations in the Town of Evans; and

WHEREAS, Erie County Sewer District No. 2 would like to acquire an easement (SBL 193.00-1-2.111) adjacent to the Hamilton Street Pumping Station for the future construction of sanitary sewers to enable the elimination of the existing pumping station; and

WHEREAS, an independent appraisal has been prepared of the easement area for Erie County Sewer District No. 2

NOW, THEREFORE, BE IT

RESOLVED, that Erie County Sewer District No. 2 be authorized to acquire the easement adjacent to the Hamilton Street Pumping Station owned by Stasia T. Vogel, Estelle T. Zoladz, Aloysius S. Zoladz, Victor E. Zoladz and Louise M. Hacken (SBL No. 193.00-1-2.111) for the sum not to exceed \$52,700.00; and be it further

RESOLVED, that any necessary agreements with the property owners required for the County to secure the easement are hereby approved; and be it further

RESOLVED, that the County Executive be, and hereby is, authorized to execute the agreement to provide the needed easements subject to approval as to form by the County Attorney's Office and certification of availability of funds from the Project Fund Balance or an authorized advance from the General Fund by the Comptroller's Office; and be it further

RESOLVED, that the Comptroller be authorized and directed to allocate the sum not to exceed \$52,700.00 from Erie County Sewer District No. 2 Sewer Capital 430-913; and be it further

RESOLVED, that the Clerk of the Legislature be directed to send certified copies of this resolution to Charles J. Alessi, P.E., Deputy Commissioner of the Department of Environment and Planning, and Gregory J. Dudek, Assistant County Attorney, Nancy Naples, Erie County Comptroller, and Joseph Passafiume, Director, Budget, Management and Finance.  
(5-0)

5. Item Page -2004 (Comm. 7E-26)

**COUNTY EXECUTIVE**

WHEREAS, the Department of Environment and Planning, Division of Sewerage Management hereby requests approval to transfer several positions in the 2004 Budget within the Division of Sewerage Management and the Erie County Sewer Districts; and

WHEREAS, said transfers will allow for an easier transition and the ability to conform to the new SAP accounting software system to be implemented.

NOW, THEREFORE, BE IT

RESOLVED, that the following positions be transferred as listed below:

	DEPARTMENT:	TITLE:	POSITION CONTROL# (SAP NO.)
FROM: 850 D.S.M.		Clerk-Typist - PT	811687 (1728)
TO: 820 ECSD NO. 2			
FROM: 850 D.S.M.		Eng. Asst. 55-A	811951 (3356)
TO: 830 ECSD NO. 3/STNS			
FROM: 850 D.S.M.		Clerk-Typist	811955 (1614)
TO: 830 ECSD NO. 3/STNS			
FROM: 830 STNS/SD3		Asst. San. Engineer	804130 (513)
TO: 850 D.S.M.			

and be it further

RESOLVED, that the funding for the transfers for the affected positions be taken out of the 2004 Budget, Unexpended Salaries in each District affected and be it further

RESOLVED, that certified copies of the approved resolution be sent to Joel A. Giambra, County Executive; Charles J. Alessi, Deputy Commissioner, Department of Environment and Planning; the Erie County Personnel Department and the Erie County Budget Office.  
(5-0)

6. Item Page -2004 (Comm. 7E-31)

**COUNTY EXECUTIVE**

WHEREAS, The Pfohl Brother's Landfill is an inactive hazardous waste landfill in the Town of Cheektowaga that is listed on the New York State Registry of Inactive Hazardous Waste Sites; and

WHEREAS, The Pfohl Brother's Landfill has been remediated as a properly designed and capped landfill with a smaller footprint than the original landfill, resulting in available land for redevelopment along Transit Road and Aero Drive; and

WHEREAS, The existing parcels that make up the Pfohl Brother's Landfill have back tax liens which prevent the redevelopment of the properties; and

WHEREAS, The Erie County Industrial Development Agency has agreed to assist Erie County in the redevelopment of the site by accepting the tax liens and if necessary, taking title to the properties to allow development proposals to move forward; and

WHEREAS, The County holds tax liens on nineteen parcels that make up the Pfohl Brothers Landfill, described as:

1. SBL#81.040-1-26
2. SBL#81.04-1-27
3. SBL#81.040-1-28.100
4. SBL#81.04-2-9.1
5. SBL#81.040-2-10.100
6. SBL#81.040-2-11
7. SBL#82.03-4-5
8. SBL#82.03-4-6
9. SBL#82.030-4- 7
10. SBL#82.03-4-8
11. SBL#82.03-4-9.11
12. SBL#82.030-4-9.120
13. SBL#82.030-4-9.2
14. SBL#82.03-4-10
15. SBL#82.030-4-11
16. SBL#92.020-3-6
17. SBL#92.02-3-13
18. SBL#92.02-3-14
19. SBL#93.01-1-1

NOW, THEREFORE, BE IT

RESOLVED, That the County Executive is authorized to enter into any necessary agreements and other documents with the Erie County Industrial Development Agency and the parties responsible for the clean-up of the Pfohl Brother's Landfill in order to transfer the County's interest in the above-referenced parcels; and be it further

RESOLVED, That the Clerk of the Legislature be directed to send certified copies of this resolution to the County Executive; the Director of the Division of Budget, Management, and Finance; the Comptroller; the Commissioner of the Department of Environment and Planning; and the County Attorney.

(5-0)

7.      Item                      Page                      -2004                      (Intro. 7-1)  
**DUSZA**

WHEREAS, Governor George Pataki has presented an executive budget for New York State for Fiscal Year 2004-2005 and

WHEREAS, that budget, like recent state budgets, again cuts transportation funding in certain key areas including nearly \$200 million in reductions from FY 2003-2004 in the areas of contract letting, the Consolidated Highway Improvement Program (CHIPS) program, and design and engineering, and

WHEREAS, those cuts in state funding will result in negative consequences for roads, highways and bridges in Erie County -highways, roads and bridges of which many already have significant deterioration and are in poor condition, leading to potentially dangerous situations,

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature expresses its support for the continued comprehensive state funding of transportation projects and programs in FY 2004-2005 and beyond, and be it further

RESOLVED, that this Honorable Body urges the New York State Legislature to carefully review the Governor's proposed budget and make appropriate revisions to appropriate additional funds for transportation, specifically contract letting, CHIPS, and design and engineering, and be it further

RESOLVED, that certified copies of this resolution be provided to the Governor, local delegation of the New York State Legislature, and the Erie County Commissioner of Public Works. Fiscal Impact: Positive for Erie County.

(5-0)

**RAYMOND K. DUSZA**  
**CHAIRMAN**